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Issues, Options, and Recommendations for the Office of Pesticides and Toxic Substances Activities on Indian Lands

Northern Arizona Univ., Flagstaff

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ISSUES, OPTIONS, AND RECOMMENDATIONS FOR THE OFFICE OF PESTICIDES AND TOXIC SUBSTANCES ACTIVITIES ON INDIAN LANDS

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In 1984 EPA Administrator William Ruckelshaus issued an Indian Policy Statement which committed the Agency to working with tribes on a government-to-government basis and assisting them in setting up and administering their own environmental programs. Since that time the Offices in EPA, including the Office of Pesticides and Toxic Substances (OPTS), have made various degrees of progress in fulfilling that committment. This report looks at the activities of EPA and other Agency Offices and identifies issues, problems and successes that have developed since 1984. It proposes options and makes recommendations for OPTS to use in implementing the Indian Policy.

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ABSTRACT

In 1984 EPA Administrator William Ruckelshaus issued an Indian Policy Statement which committed the Agency to working with tribes on a government-to-government basis and assisting them in setting up and administering their own environmental programs. Since that time the Offices in EPA, including the Office of Pesticides and Toxic Substances (OPTS), have made various degrees of progress in fulfilling that commitment. This report looks at the activities of EPA and other Agency offices and identifies issues, problems, and successes that have developed since 1984. It proposes options and makes recommendations for OPTS to use in implementing the Indian Policy.

These recommendations are based on interviews with Indian tribal environmental representatives, inter-tribal organizations, Regional Indian Coordinators, Indian Health Service personnel, and Indian coordinators in the OPTS offices, other EPA offices, and other Agencies in Washington DC. A number of documents and reports were used as well in conducting the research. An appendix is included which provides access to these documents, to a list of the people interviewed with phone numbers and addresses, and to other relevant material. A time table of practicable applications of the recommendations is provided as well.

PRACTICAL APPLICATION OF RECOMMENDATIONS IN TIME FRAMES

SIX MONTHS

- Appoint a person or committee to study the status of non-reservation tribes. (See p 47)

- onduct one or more training programs to instruct headquarters and regional staff about working with Indian tribes. Video these workshops for later use. (See pp 31-34)

- Conduct a study to see how well the EPA-Indian communication plan is working. This can be done by sending out an important communication to tribes and following through afterwards to find out how many tribal environmental representatives received the correspondence, how many read and understood it, and how many responded. For those tribal environmental personnel who did not receive it, trace back to find out at what level the communication process broke down. Respond accordingly. (See pp 40-43)

- Contact Karen Fornstein (OW), and Chris Powers (Division of Wastewater Treatment) to review the way they work with tribes and with IHS. (See Contacts p 54)

- Make tribes aware of their right to lobby Congress for more money for environmental programs, and provide information to them about how to proceed. This can be done through letters and at meetings. (See pp 23-25)

- Review the provisions of SARA Title III, which treat tribes (including non-reservation tribes) as states. (See pp 25-27)

- Study the results of the pilot project on the Fort Berthold Indian Reservation, and look into the possibility of establishing a pilot project on a small, isolated Indian reservation or village in order to identify problems and establish methods for resolving them. Projects with a non-reservation tribe and a reservation tribe would be beneficial. (See pp 29-30, 45-46)

- Compile a packet of information about inter-tribal organizations to send to tribes. It should include names and addresses of already existing inter-tribal organizations which are willing to help tribes (such as those mentioned previously in this paper); information concerning the benefits of these affiliations; and a strategy for actually setting them up. See pp 36-37)

- Find out which Indian Tribes have received a copy of "Environmental Protection in Indian Country: A Handbook for

Tribal Leaders and Resource Managers" and which ones attended the workshop. Suggest that OFA contact NCAI to set up workshops for those tribes which have not. Prepare a video to explain EPA to tribes. (See pp 38-39 and Appendix X)

- Contact the tribes which advocate the formulation of a "Tribal Environmental Program Managers' Association" and discuss their ideas with them. (See p 42 and Appendix XXV)

- Designate a specific person to compose introductory letters for OPTS communications with tribes to facilitate better understanding between tribes and the Office. Introductory letters for correspondence which is specific to a tribe or region should be composed by the regional Indian workgroup coordinator.
(See pp 46-47)

- Review the information provided by the Northwest Fisheries Tribal Commission on their cooperative work with Washington State, and contact the Commission to discuss their interest in working with other tribes. See pp 7, 37, and Appendix IV)

TWELVE MONTHS

- Hold a meeting with representatives from other agencies who work with toxic and pesticide concerns on Indian lands to discuss more inter-agency cooperation. (See pp 22-23 and Contacts p 55)

- Take action to obtain more money specifically for use with Indian tribes. (See pp 23-25)

- Prepare a series of videos and program packets for different program areas such as enforcement, certification, etc. to explain to tribes how to work with EPA. Include in the packets samples of tribal resolutions, cooperative agreements, budgets, standards, schedules, and procedures. (pp 38-39)

- Have regional Indian Workgroup coordinators identify environmental contacts on all the reservations in their regions. Have them request that those tribes which do not have specific environmental representatives appoint them. Use this information to update mailing lists. (pp 40-43 and Appendices XXII and XXIV)

- Conduct a meeting with regional staff to encourage more efficient use of available funds on Indian lands. This would include making sure that all tribes in a region are aware of possible funding and how to apply for it, and using any unused funds to pay for OPTS representatives to travel to reservations to provide training, technical advice, and general information about EPA and OPTS to tribes. (See pp 23-25)

- Plan a meeting with regional Indian workgroup coordinators and tribal representatives to discuss pesticide and toxic concerns on Indian lands, and include representatives from the states. (See pp 35-36 and Appendices XIV and XX)

- Have regional Indian workgroup coordinators conduct a study to find out if print-outs or videos need to be translated into Indian language. (This has already been done for the Navajo tribe.)

EIGHTEEN MONTHS

- Promulgate regulations for TSCA and FIFRA to work with tribes as states in all aspects. Base the revisions on information learned in the earlier-mentioned study of SARA Title III. (See pp 25-27)

- Follow through on the study of non-reservation tribes by addressing the issues and problems that surfaced in the study. Make sure non-reservation tribes are informed of the results. (See p 47)

- Encourage regional and tribal personnel to make use of panel discussions with states in order to resolve jurisdictional issues. Have them review previous successful examples, such as ones used in Regions II and VIII. (See pp 27-29)

- Follow through on the previously-mentioned study for a pilot project on either a small reservation or with a non-reservation tribe, or both. (See pp 29-30, 45-46)

- Discuss guidelines for regions to use in working with tribes at a regional meeting. Solicit recommendations and prepare a format for regional personnel to use. (See pp 34-35)

- Make more training and technical assistance available to tribes through the maximal use of circuit riders, Scholars, and regional workshops. This may entail an increase of available funding.
(See pp 23-25,39-40)

- Make multi-media funding available to tribes. Provide a means for small tribes to qualify for and obtain funds for environmental programs. (See pp 29-30)

- Have those regions which contain Indian lands conduct studies of toxic substances on Indian lands similar to the one conducted by Region V. (See pp 35-36)

- Establish a program for facilitating the use of alternative, non-chemical farming methods on Indian lands. These would include the use of workshops, mailings, videos, and possibly a pilot project.

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FORWARD

This project was prepared for the Office of Pesticides and Toxic Substances (OPTS) within the Environmental Protection Agency. The research and resulting document are the work of Pat Garber, a graduate student at Northern Arizona University in Flagstaff, Arizona. It was funded by a NNEMS grant under the supervision of Tom Hooven, Deputy Director, Office of Program Management Operations within OPTS in Washington DC.

The primary purpose of the project is to target steps which OPTS can take to improve its activities on Indian lands. Many of the issues and recommendations which are discussed may be applicable to other agencies and offices, and may require cooperation among them in order to be successful.

INTRODUCTION

In 1984 EPA Administrator William Ruckelshaus issued an Indian Policy statement which committed the Agency to working with tribes on a government-to-government basis and assisting them in setting up and administering their own environmental programs. Since that time the Offices in EPA have made various degrees of progress in fulfilling that commitment. The Office of Federal Activities has had the responsibility of initiating and coordinating many of the Agency's activities with Indian tribes both at headquarters and in the regions. Other Offices have Indian coordinators who work with tribes in their specific areas.

Previous to the 1984 Policy statement, EPA had been working with tribes on an ad hoc basis, without any formal device for dealing with them. Most environmental statutes treated them as municipalities within states or else did not address them at all. Before the Offices could begin working with tribes in the manner recommended the acts had to be amended or new regulations added. Funding had to be set aside for tribes and channels established for working with them.

As EPA and Indian tribes began to work together it became apparent that many different issues were involved. Difficulties emerged as a result of jurisdictional disputes with states over boundary and checkerboard areas. Questions arose as to which tribes qualified for federal aid. The isolation and distance from regional headquarters of many tribes complicated the process of communication; and the great variety of tribal cultures made it infeasible to settle on one approach.

During the time from 1984 to the present many positive steps have been taken. Several of the statutes have been amended; funding has been allotted specifically for Indian tribes; and regional Indian Workgroup Coordinators have been established. Training and technical aid have been provided in workshops and through circuit-riders (experts who visit the reservations to provide assistance.) Many tribes have applied for and received grants to set up their own programs in various environmental areas and these programs are now operating successfully.

But the EPA-Indian relationship is still in its beginning stages. Many problems have yet to be resolved, and the various Offices have the responsibility of addressing them. The Office of Pesticides and Toxic Substances (OPTS) is interested in looking at options for developing and improving its approach in working with Indian tribes. This project was developed with that goal in mind. The purpose of this paper is to review previous EPA activities on Indian lands; identify current issues and concerns; and suggest options and recommendations for OPTS to use in working with tribes.

In gathering the necessary information various Agency documents have been examined and a number of professional people have been consulted. The ideas presented in this paper represent the input of such agencies as the Department of Agriculture, Health and Human Services, Department of the Interior, Housing and Urban Development, and the US Forest Service. Offices consulted within the Environmental Protection Agency include the Office of Federal Activities (OFA), Office of Air and Radiation (OAR), the Office of Water (OW), and the Office of Solid Waste (OSWA). EPA Indian Workgroup Coordinators and Indian Health Service personnel from the nine regions containing federally-recognized Indian tribes are represented, as well as several other regional staff. American Indian organizations which have provided information include the National Congress of American Indians (NCAI), the Inter-Tribal Council of Arizona (ITCA), the Council of Energy Resource Tribes (CERT), the Inter-tribal Agriculture Council (IAC), and the Northwest Fishery Commission (NWFC). Interviews have been conducted with members of thirty-two Indian reservations, Oklahoma tribes and Native Alaskan villages, representing tribes of varying size, location, and resource use.

The final product is a synthesis of the collected information and ideas. Activities and issues which are described in this paper are drawn from the various sources mentioned above; and the options and recommendations represent the result of careful analysis of all the input. More information than was possible to collect during the grant period of performance is available for use in further study or implementation of the issues and recommendations described in this paper. This review and analysis should continue for a healthy and viable program to function.

INDIAN TRIBES AND INTER-TRIBAL ORGANIZATIONS

There are 312 federally-recognized Indian reservations, 200 Alaskan native villages, and 35 Oklahoma tribes in the United States. The diversity among them in size, location, government, and resources is vast. Some are on reservations; others (such as the Alaskan and Oklahoma tribes) are on privately-owned lands. Some are located in isolated rural areas; others in urban centers. Some have sophisticated and complex governing bodies; others have very simple administrative systems. Some have agricultural lands; others have forestry and timber; some depend on the rivers or the ocean for their living; some on industries or tourism; while others have very little source of income of any kind. Federally-recognized tribes are located in nine of the ten EPA regions (Region III being the exception), with most being in the western half of the country.

There is almost as much diversity in the forms of environmental programs existing among Indian tribes. Some tribes, such as the Navajo, have their own Environmental Protection Agencies with their own programs and a full staff of trained personnel. Many small tribes, such as the Alaskan native villages, do not have any environmental programs or any real need for them. Most reservations participate in some environmental activities, either working with EPA, IHS, state programs, or all of these. Many maintain their own programs, while some participate in inter-tribal programs. Their activities usually correspond with the needs specific to their environment and to their financial and personnel resources.

The issues described in this paper vary for different tribes depending on their location, their sophistication, and their resources. Tribes in agricultural or timber areas have concerns with pesticides. Tribes in industrial areas have to deal with toxic substances. Tribes in eastern regions where there are small Indian populations have to use different political avenues than western tribes where Indian populations are much greater. Non-reservation tribes must also use different tactics in working with environmental concerns than reservation tribes. Alaskan villages require another approach entirely when dealing with geographical and related concerns.

Many tribes handle environmental concerns by joining together in inter-tribal organizations. These groups provide a common meeting ground for tribes, and act as liaisons and spokesmen for tribes with other government agencies, including EPA. They can assist tribes with legal advice and technical aid and provide training in many areas. The Inter-tribal Council of Arizona (ITCA) is a good example of how tribes can work with each other and with EPA. It consists of the nineteen Arizona Indian reservations, and addresses the functions of human services, justice, legislature

and environmental issues. Tribal leaders vote on decisions to determine what is best for the tribes overall. EPA Region IX works with ITCA as if it were a state, and provides pesticide program grant money to ITCA for all the tribes except the Navajo Nation (which has its own cooperative agreement with EPA.) ITCA recently helped coordinate the "EPA-Tribal Inspectors' Training Workshop" for tribes from Regions VIII, IX, and X. The Council has expressed a willingness to work with tribes from other states in setting up similar organizations. (1)

The National Congress of American Indians is a nation-wide affiliation of Indian tribes. They have also been very active in working with EPA. They used EPA funds to produce the Environmental Handbook for Tribal Leaders and Resource Managers and conducted workshops to teach tribes how to work with EPA in 1988. They held a special session with EPA at their 45th Annual Convention in 1989 to provide a forum for Agency speakers to describe their activities, and worked with OPP to present a seminar on pesticide applicator training for tribal leaders in the Fall of 1989. Their newsletter provides an excellent channel for communication with Indian tribes. (2)

Another nation-wide organization consisting of forty-three Indian tribes is the Council of Energy Resource Tribes (CERT). Direct participation in this organization is limited to tribes which have energy resources (such as oil, uranium, or coal, or running water); but the subsidiary CERT Environmental Institute provides services for all tribes. CERT has a constitution with by-laws and a system through which it allocates grant monies for tribes based on need and requests. It has identified environmental issues as one of its priorities. CERT has been working with OFA and OW, and is interested in becoming more active with OPTS. It has recently sent a letter of intent to Pollution Prevention regarding the use of pesticides in the home; and is working on a proposal for providing training in pesticide use. A newsletter will soon become available, and will provide a good method for OPTS to contact tribes. CERT would like to serve as a contractor with EPA to facilitate better communication. (3)

The Northwest Fisheries Tribal Commission in Washington state provides an excellent example of how tribes can work together with each other, with industry, and with states. This affiliation was created to facilitate tribes in working with fisheries, shellfish, wildlife, and other environmental issues. It consists of twenty tribes. It has recently been involved in implementing a very successful project-"Timber Fish and Wildlife"-for which it won an award from the State of Washington. This project can serve as a model for inter-governmental cooperation between tribes and states. The Northwest Fisheries Commission publishes a newsletter and has produced booklets and a video-tape to explain its activities. It is interested in working with OPTS and using its resources to help other tribes work with environmental concerns. (4)

The Inter-tribal Council of Agriculture is a newly-formed affiliation of agricultural Indian tribes. Based at Fort Hall, Idaho, it works with USDA and provides information and services for its eighty members. It encourages OPTS to communicate with tribes about pesticide issues by means of its newsletter. (5)

ACTIVITIES AND CONCERNS OF OTHER AGENCIES ON INDIAN LANDS

Various federal agencies are engaged in activities on Indian lands, and they as well as EPA are affected by Reagan's 1983 Indian Policy. EPA was one of the first to respond, but all the agencies are now involved in efforts to work with tribes as sovereign nations. Often these efforts overlap, and sometimes they affect the success or failure of one another. Environmental concerns are an issue for all of the agencies; and a thorough understanding of how each one confronts these concerns on Indian lands can be useful to EPA and OPTS. Cooperation and coordination among these offices can benefit agencies and Indian tribes.

BUREAU OF INDIAN AFFAIRS (BIA)

The Bureau of Indian Affairs (BIA), a division of the Department of the Interior, has been working with Indian tribes since the end of the nineteenth century. As a result of the passage of PL 93-638 in 1975 many tribes have contracted with BIA to run their own programs; but the Bureau is still active in many areas, and often serves as an intermediary for tribes working with other agencies. BIA is involved with various environmental activities, and has dealt with EPA and OPTS on different occasions. It has an Environmental Services division in Washington DC, and has personnel working in its areas through-out the country.

BIA works with OPTS in several ways. Tribes (according to Regulation 40CFR-171.10 of FIFRA) submit Pesticide Program Plans to BIA, which in turn submits them to OPTS. BIA has been involved in the removal of PCBs on reservations as a result of an EPA lawsuit in 1985. The Bureau is also in charge of distributing the AHERA grant funds for asbestos abatement from Indian schools. It has completed the first stage of the project in 90 to 100 schools. It is in the process of beginning a study of toxic substances (including pesticides) in three of its areas.(6)

Representatives of BIA would like to develop an even closer working relationship with EPA. They feel that the information and understanding they have accumulated as a result of their long experience with tribes can be useful to the Agency. They also believe that they themselves would benefit from being included in planning and regulation-development by EPA.

HUMAN DEVELOPMENT SERVICES (HDS)

A division of Health and Human Services, Human Development Services (HDS) works with Indian Tribes, Alaskan villages, and Hawaiian peoples; and has recently been authorized to serve non-federally recognized tribes. The Office provides financial support for locally determined social and economic development projects, offers technical assistance to tribes, and helps tribes apply for low-income housing status classification.

HDS is in the process of working on an inter-agency agreement with EPA. It is interested in playing a coordinating role to facilitate relations between agencies and tribes; and recommends an inter-agency meeting to discuss tribal issues.

INDIAN HEALTH SERVICE (IHS)

The Indian Health Service (IHS), a division of Health and Human Services, also has a long history of involvement with Indian tribes. They work with environmental problems that can affect human health, such as drinking water quality and sanitation. Many tribes contract with IHS to run programs and conduct monitoring operations. IHS works closely with EPA, particularly the Office of Water and Wastewater Treatment. They recently coordinated with Wastewater Treatment in producing their 1989 "Needs and Assistance Report".(7) IHS is involved with many issues that relate to OPTS as well. They are working with EPA to conduct radon tests in Indian homes and have also done some asbestos testing. They have cooperated with EPA in coating an asbestos Superfund site with polymer in Region VIII. They recently constructed a new water supply for a Region II tribe whose original water was contaminated with PCBs. They also do some monitoring for pesticides in drinking water, and worked with EPA in conducting a study of pesticide and fertilizer contamination on one of the Colorado River reservations.

Most IHS staff believe that EPA and IHS should work together as closely as possible for the benefit of all concerned. They feel that studies conducted by IHS can save EPA money and work; that IHS staff can introduce EPA staff to tribal members; that they can advise EPA in certain areas with which they have familiarity; and that they can assist them in carrying out projects.

DEPARTMENT OF AGRICULTURE (USDA)

The Department of Agriculture (USDA) works with Indian tribes in certain areas, such as soils, forests, etc. Their activities in the past have been informal; but they are striving to develop more active involvement with tribes. They have a Tribal Coordinator who is in charge of agricultural concerns on Indian

lands. They have recently been involved in helping tribes set up an Inter-Tribal Agriculture Council which is based in Fort Hall Idaho. This organization provides a means for agricultural tribes to work with each other and with USDA.

The Department is interested in working with EPA and recommends that the Agency take advantage of the IAC to correspond with tribes involved with agricultural activities. The Tribal Coordinator would like to see methods of non-chemical pesticide control introduced to the tribes. He feels that many Indians are opposed to the risks of chemical pesticides and would be very receptive to alternative methods.

US FOREST SERVICE (USFS)

The US Forest Service is a division of the Department of Agriculture. The Forest Service has recently issued a policy statement which commits it to working with tribes on a formal basis. This policy is now going into effect. USFS has a Tribal Government Program Manager who is in charge of working with Indian tribes.

The Program Manager is interested in seeing USFS work more closely with EPA. A number of herbicides and insecticides are used by the Forest Service, and he feels that more inter-agency cooperation in monitoring and regulating these pesticides would be beneficial. He would also like to see OPTS take a more pro-active role in letting tribes know about the potential dangers of pesticide use.

HOUSING AND URBAN DEVELOPMENT (HUD)

Housing and Urban Development (HUD) works with Indian tribes through their six field offices, which act as liaisons between headquarters and the reservations. The field offices assist housing authorities in the tribal governments to establish ordinances. Once these ordinances are approved the tribes can submit applications for low-income housing. The field offices hold workshops to train housing authorities in working with HUD.

HUD works with EPA on issues which relate to wildlife and timber on lands which they are developing. It communicates with tribes through personal contact, written contact, and by telephone.

A BRIEF SUMMARY OF
EPA And OPTS ACTIVITIES ON INDIAN LANDS

The present EPA-Indian relationship can be traced back to the 1970 Nixon initiative which promoted Indian control of the planning and implementation of Indian programs. In 1975 the American Indian Self-Determination and Education Assistance Act (PL 93-638) provided tribes with the option of assuming administration on Indian lands by making contractual agreements with the Bureau of Indian Affairs (BIA). The Ninth Circuit Court upheld the sovereignty of Indian tribes in the case Nance v. EPA, which ruled that EPA had the right to allow tribes to redesignate their reservations as air quality regions for greater pollution control (8). EPA's relationship with tribes was strengthened with the amendment of Section 23 of The Federal Insecticide Fungicide and Rodenticide Act (FIFRA) in 1978. The amendment authorized EPA to enter into cooperative agreements with Indian tribes for the enforcement of FIFRA.

In 1983 President Reagan issued a policy statement which emphasized the juridical sovereignty of Indian tribes and outlined an approach to help the tribes establish self-government, economic growth, and managerial expertise. The following year EPA Administrator William Ruckelshaus issued a policy statement and an implementation guide for the Agency to work with Indian tribes. It stated that EPA would 1) work with tribes on a government-to-government basis; 2) recognize tribal authority to set standards, make decisions, and manage programs; 3) assist tribes in assuming regulatory and program responsibilities; 4) remove legal impediments to working with the tribes; 5) consider tribal interests; 6) encourage cooperation between state and tribal governments; and 7) enlist the support of other federal agencies on Indian lands. (9)

The Office of Federal Activities (OFA) set up the Indian Workgroups in the regions in 1984 with the purpose of 1) identifying legal, policy, and procedural impediments to working with tribes; 2) recommending opportunities for program and project implementation; and 3) performing other services in Indian policy implementation.

In 1985 four pilot programs were initiated to identify problems in successful implementation on Indian lands. They included the Menominee Tribe in Region V, the Fort Berthold Reservation in Region VIII, the Navajo Nation in Regions IX, VIII, and VI; and the Colville Tribes in Region X. That same year OFA produced the "Interim Strategy for Implementation of the EPA Indian Policy" which outlined goals, objectives, constraints, and an implementation plan. (10)

To assist EPA in helping tribes address environmental problems the "Americans for Indian Opportunity" conducted a study of Indian needs. They published the results in a Survey of American Indian Environmental Protection Needs on Reservation Lands: 1986. This document identified environmental priorities, pollution sources, and other problems on forty-eight reservations. (11) Also in 1986 the Safe Drinking Water Act (SDWA) Amendment and the Superfund Amendments and Reauthorization Act (SARA) were signed into law to treat Indian tribes as states.

The Clean Water Act was amended in 1987 to treat tribes as states for certain purposes, and Alaskan villages and Oklahoma tribes were included in 1988. A full-time Indian Coordinator was added at Headquarters in Washington DC, and the National Congress of American Indians (NCAI) received a grant to train tribes to work with EPA. They published the Environmental Handbook for Tribal Leaders and Resource Managers and showed tribes how to use it in workshops held in Albuquerque, Seattle, Oklahoma City, Green Bay, and Sioux Falls. (12)

EPA cooperated with the NCAI in holding a special session at their 45th Annual Convention in March 1989. Speakers from various EPA Offices presented overviews of their activities at this meeting. OFA developed the "EPA Indian Communication Plan" in April. It identified appropriate methods of communication and recommended actions to improve communication. (13) Also in 1989 the Senate Select Committee on Indian Affairs published an overview of environmental implementation on Indian lands. It was called the "Environmental Protection Agency Indian Policy and Recent Legislation Developments." (14)

Activities of the Office of Pesticides and Toxic Substances on Indian lands include the following:

In 1980 the Headquarters Guidance for Pesticide Enforcement Grants was expanded to include Indian tribes. The first cooperative agreements on pesticide enforcement were awarded in 1979, four in Region VIII and one in Region IX.

OPTS directed its efforts in 1985 toward larger agricultural and ranching reservations, mostly in the southwest and plains areas. FIFRA training and enforcement assistance were conducted in Regions VIII, IX, and X. In Region V technical assistance was given to tribes on PCBs and asbestos.

The first Tribal Certification Plan was approved and designated to Fort Berthold Indian Reservation in North Dakota in 1986. Grants were offered to BIA for 38 new asbestos abatement projects in the north-central and southwestern United States to be administered by Region VI. In this year SARA was signed into law with provisions to treat tribes as states and maximize tribal participation.

In 1987 eight grants were awarded under ASHAA for asbestos abatement in BIA schools. Three draft Tribal Pesticide Applicator Certification Plans were submitted in Region VIII that same year. The Rosebud Sioux tribal officials, along with Region VIII, developed the pesticide applicator certification procedures which are currently used by many tribes.

Fiscal Year 1988 saw the greatest increase of funding in OPTS of all the Offices, with $900,000.00 more than the previous year. OPTS provided funding for pesticide compliance monitoring through eight agreements in Regions VIII, IX, and X. OPTS awarded three for asbestos abatement projects in BIA schools. Additionally, a total of $1,000,000.00, to help defray compliance costs with AHERA, was provided.

The Tribal Inspectors' Training Workshop was conducted in 1989 in Phoenix, Arizona to discuss FIFRA new pesticide initiatives and how to conduct inspections. ITCA cooperated with OCM in helping to conduct this workshop, which was funded by OPTS.(15) During 1989 the "Consolidated Pesticide Cooperative Agreement Guidance" was developed by OPP and OCM of OPTS. It provides guidance in the required elements of cooperative agreement applications, the procedures for reviewing and funding, and program evaluation and management (16). Also in 1989 OCM submitted within the Agency a pollution prevention proposal to conduct a study of pesticide use on Indian lands (17).

EXPENDITURES AND WORKYEARS ON INDIAN LANDS

The annual fiscal reports of EPA Indian activities reflect the amount of workyears and dollars which have been expended on Indian tribes by EPA and OPTS since the 1984 Policy was enacted. They are as follows:

EPA AND OPTS EXPENDITURES ON INDIAN LANDS

YEAR	DOLLARS		WORKYEARS	
	(EPA)	(OPTS)	(EPA)	(OPTS)
1985	$5.7 mil.	$593.5 th.	38	1.63
1986	$2.9 mil	$621.8 th.	39	2.04
1987	$8.9 mil	$652.5 th.	57.1	2.30
1988	$6.9 mil	$1565 th.	77.7	2.50

ACTIVITIES AND CONCERNS OF EPA OFFICES ON INDIAN LANDS

EPA is a very large and diverse organization, operating at Headquarters Offices in Washington DC and in Ten Regional Offices throughout the United States. The various Offices within it develop their own programs and activities. All are affected by EPA's policy for working with Indian tribes, but they are at different stages in implementing the policy. OPTS can benefit from examining the activities of other Offices on Indian lands and considering their suggestions. They can work with these Offices to coordinate programs and workshops, thus maximizing the progress of all.

OFFICE OF FEDERAL ACTIVITIES (OFA)

The Office of Federal Activities (OFA) within the External Affairs Office is in charge of coordinating the EPA Indian policy. OFA supervises the National Indian Workgroups, which include the National Indian Coordinator, Regional Indian Coordinators, and Program Coordinators. OFA works with personnel in headquarters and in regions and serves as a liaison between tribes and the various Offices.

OFA recently compiled an EPA-Indian Communication Plan which has been distributed to members of the Workgroups to use. It has been active in conducting studies of Indian issues; in organizing meetings and training sessions for EPA staff; and in keeping regional and program coordinators updated on new developments.

One of the main concerns of OFA is maintaining an operable communication system between headquarters, regions, and tribes. The Communication Plan was developed with this in mind.

OFFICE OF AIR AND RADIATION (OAAR)

The Office of Air and Radiation (OAAR) does not have a formal policy for working with Indian tribes. The Clean Air Act (CAA) is silent on the subject except for a clause which allows tribes to classify their reservations. Amendments have recently been drafted which include a section to treat tribes (including Alaskan villages) as states; but until these amendments are passed by Congress, OAAR has no statutory authority to work with tribes.

In the past, OAAR has given some grants to Indian tribes for air monitoring without formal statutory authority. In 1974 EPA allowed tribes to redesignate their lands as air quality regions, and this action was upheld by the Ninth Circuit Court in Nance v. EPA in 1977. Region VIII has been the most active in assisting tribes in air monitoring.

The main issue facing OAAR now on Indian lands is the lack of statutory language in the Clean Air Act and Regulations. As a result there are jurisdictional disputes between states and tribes. One problem results from the fact that EPA does not have a device for controlling small emissions. This is usually left to the states, but because states do not have jurisdiction on tribal lands there is no form of regulation there. Non-attainment programs are also the responsibility of the states, and because the federal government does not have a provision for this the tribes are not covered.

OFFICE OF WATER (OW)

The Office of Water (OW) works with the Safe Drinking Water Act (SDWA) and the Clean Water Act (CWA). The SDWA was amended in 1986 to include Indian tribes and treat them as states. The CWA was amended the following year to include tribes, and in 1988 to include Alaskan villages and Oklahoma tribes. SDWA does not yet address these non-reservation tribes. Plans are being made to treat this discrepancy, and an appropriations bill is in progress for construction grants to Alaskan and Oklahoma tribes.

Prior to the passage of the amendments, a few tribes used Section 208 to do some water quality planning. Safe drinking water programs also existed on reservations, but there were no formal channels for setting them up or administering them. Since the recent amendments OW has been very active in working with Indian tribes, and senior management has been supportive.

The six offices within OW have their own Indian workgroups, and there is an Indian Coordinator for the main Office. They have held several successful training workshops and meetings for staff and for tribes.(18) Eight regulations are being developed for working with tribes, and tribal personnel are included in the review workgroups. Tribes are now in the process of applying for grants.

The Office of Wastewater Treatment within OW has recently completed an assessment of wastewater needs on Indian lands in response to a requirement of the CWA amendments. They cooperated with IHS to develop a "Needs and Assistance Report", and are now in the process of developing a priority list to use in allotting grant money for treatment systems. They are finding several pilot programs established in 1988 to be very helpful. (19)

Some of the concerns described by OW representatives were the need for the inclusion of Alaskan and Oklahoma Tribes in the SDWA and the need for more money for Indian tribes. They stressed the importance of good communications, and recommended that meetings and workshops be held as often as possible. They felt that working with inter-tribal organizations such as CERT, ITCA, and NFTC was very useful, as well as person-to-person contacts with tribes.

OFFICE OF SOLID WASTE (OSW)

The Office of Solid Waste (OSW) works with the Resource Conservation and Recovery Act (RCRA), which treats Indian tribes as municipalities. In 1985 the Ninth Circuit Court upheld EPA's decision denying states enforcement authority on Indian lands in "Washington Department of Ecology v. EPA" (20). At the present time, however, there is no formal provision for tribal solid waste programs.

Action is being taken to add statutory language to RCRA to treat tribes as states; and this could take place when the Act is re-authorized. In the meantime OSW has made some assistance available for tribes, and has provided funds for seven solid waste management plans in 1989.

Until formal language is added to RCRA for the development and management of solid waste on Indian lands, OSW is limited in its ability to work with tribes.

THE OFFICE OF PESTICIDES AND TOXIC SUBSTANCES (OPTS) ACTIVITIES AND ISSUES ON INDIAN LANDS

The Office of Pesticides and Toxic Substances (OPTS) is one of the major regulatory offices in EPA. It has headquarters in Washington DC and field representatives in the ten regions. OPTS is administered by Assistant Administrator Linda Fisher and Deputy Assistant Administrator Victor Kimm. It is divided into the Office of Pesticide Programs (OPP), the Office of Toxic Substances (OTS) and the Office of Compliance Monitoring (OCM). (21) Each of these Offices has a designated Indian Coordinator who is knowledgeable of activities on Indian lands.

IMMEDIATE OFFICE (IO)

The Director of the Office of Program Management Operations (OPMO) within the Immediate Office (IO) is Marylouise Uhlig; and the Deputy Director is Tom Hooven. This Office is responsible for 1) administrative and management coordination and direction for the three other Offices; 2) OPTS representation at Agency meetings and activities; 3) providing liaison services for EPA Offices and regions; and 4) communication and outreach concerning OPTS mandated environmental statutes.

The IO has the following primary functional areas: Program Management; Human Health and Science; Review and Regulatory Policy Coordination; and Financial Management. The OPMO works with Indian tribes by serving as a liaison between OFA and the Offices within OPTS. Communication is one of the important concerns in working with Indian tribes. OPMO recognises the need to identify strong and weak links in the communication plan prepared by OFA and to encourage more direct program planning and management involvement related to Indian concerns across OPTS.

OFFICE OF PESTICIDE PROGRAMS (OPP)

The Office of Pesticide Programs (OPP) registers pesticide products and decides if and how they can be manufactured, sold, and used; while minimizing health and environmental concerns. It implements the Federal Insecticide Fungicide and Rodenticide Act (FIFRA). OPP looks at the properties of pesticide products and analyzes the benefits and the risks to decide whether to register a product and what use directions and precautions to include on the product labeling. It asks the questions "What health and environmental effects will result if it is used? How much will agriculture and other socio-economic sectors be impacted if it is revoked or banned?

The primary mechanism for regulating pesticides is through instructions printed on the product label or package, including any

supplemental instructions or documents that are referenced on the labeling. This Office produces the label requirements while the Office of Compliance Monitoring (OCM) uses them for enforcement. OPP works with the Department of Agriculture, the Fish and Wildlife Service, and Occupational and Health Services to determine pesticide use limitations or restrictions. The seven (7) divisions of OPP are : 1) Program Management and Support, 2) Registration, 3) Field Operations, 4) Special Review and Reregistration, 5)Biological and Economic Analysis, 6) Environmental Fate and Effects, and 7) Health Effects. A Policy and Special Projects Staff also works with the Office Director. The Field Operations Division conducts outreach, liaison, communication, and education with the regions (22) and has the most direct link to Indian Program Activities for OPP.

OPP works with tribes by assisting them in setting up and administering their own pesticide enforcement and certification programs. It distributes funds by awarding cooperative agreements to qualifying tribes. A seminar was conducted in August 1989 in Denver to train tribal representatives in setting up pesticide applicator programs. OPP is currently in the process of making funds available for tribes to use in the areas of ground water, worker safety, and endangered species. These funds, which will be distributed in FY 90, are being allotted based on perceived need to the regions, which will then distribute them to states and tribes.

One of the main issues identified by OPP is the need for a clearer understanding of Indian concerns and how to work with tribes. More training is recommended in this area for headquarters and regional staff.

OFFICE OF TOXIC SUBSTANCES

The Office of Toxic Substances (OTS) is in charge of monitoring new chemicals entering the market and controlling the use of existing chemicals already in the market. It works with four statutes: 1) Toxic Substances Control Act (TSCA); 2) Asbestos Schools Hazard Abatement Assistance Act (ASHAA); 3) Asbestos Hazard Emergency Response Act (AHERA); and 4) Title III of the Superfund Amendments and Reauthorization Act (SARA). OTS looks at chemicals for adverse health or environmental effects; tries to identify risks and benefits; establishes controls to minimise risks and decides whether or not to regulate a product.

Several divisions operate within OTS. A new subdivision within OTS is the Environmental Assistance Division (EAD), which acts as a liaison group for the regions (23). This division works with regulation and implementation of the statutes referenced abov, and is the focal point for tribal activities and planning.

OTS has been involved in asbestos abatement on Indian lands, working with AHERA and ASHAA. One million dollars was allotted for use in Indian schools in 1988 under AHERA. The grant was given to BIA to distribute. It is also in the process of collecting information on industrial emissions to air, water, and land on tribal lands under the Community Right to Know section 313 of SARA. It has contacted the regions to find out what tribes are effected or included; and has sent information to appropriate facilities. The outreach information on Section 313 has also been distributed to 178 Indian libraries. OTS is working with OSWER on a series of workshops on Title III for Indian tribes. They are scheduled to take place in Seattle, Denver, and Phoenix in the fall of 1989. (24)

OTS has identified a need for a more integrated approach to Indian tribes in the Offices of OPTS. Training programs should be more generally available and better advertised. Information concerning tribes should be uniformly distributed so that all headquarters management are aware of what is happening. An excellent liaison for communicating with the tribes, according to OTS, is the National Congress of American Indians.

OFFICE OF COMPLIANCE MONITORING

The main responsibility of the Office of Compliance Monitoring (OCM) is enforcement. OCM determines the strategy to be used in enforcing the regulations and laws under OPTS in the field. The statutes which OCM addresses are FIFRA, TSCA, AHERA, ASHAA, and SARA Title III. OCM provides cooperative agreement funds to states and Indian tribes to enforce the law and regulations. OCM includes three divisions, which are further subdivided into branches: 1) Policy and Grants Division (FIFRA Policy and Analysis, Grants and Evaluation, TSCA Policy and Analysis); 2) Laboratory Data Integrity Assurance Division (Scientific Support, Program Support Referral); and 3) Compliance Division (Compliance, Case Support.) (25).

OCM and the Regions work with Indian tribes in providing grants for pesticide enforcement programs under FIFRA. There is a 15% matching requirement for funds received by States and Tribes. OCM has made enforcement grant funds available to Indian tribes since 1979. OCM was the first office within OPTS to make tribal grant funds available. At the present time there are tribes in Regions VIII, IX, and X that participate in pesticide enforcement programs. The Office has recently prepared a proposal for a grant to conduct a survey of pesticide use on Indian lands. It will be submitted through OPTS to the Pollution Prevention Office in EPA as part of an Agency-wide initiative in FY90 and FY91.

OCM has set aside $50,000 of its contract funds for FY90 to support another Tribal Enforcement Workshop in FY90. A FIFRA Tribal Inspectors' Workshop was initiated by OCM in FY89 with funds from the Assistant Administrator for OPTS. It was coordinated

mainly by the Inter-Tribal Council of Arizona and attended by both tribes in and outside of the cooperative agreement program from reservations in Regions VIII, IX, and X.

OCM's Indian Coordinator feels that it is important to work toward improving relationships between states and tribes and addressing cross-jurisdictional issues.

ISSUES, OPTIONS, And RECOMMENDATIONS

Much of the progress made by EPA and OPTS in working with Indian tribes as sovereign nations has been described in the above pages. In order for this progress to continue at optimal levels, however, certain impediments need to be looked at and, when possible, removed. Those approaches which have been successful should be repeated; and those which have resulted in failure should be avoided.

In consulting with the different organizations and Indian tribes certain issues have come up again and again. Each person consulted has added his or her perspective on the problems; and has made recommendations of how to address them. Those issues that continue to re-surface and prevent effective implementation of EPA's Indian Policy are discussed in the following pages; and the suggestions offered by the various groups are described as options for OPTS to use in their approach with Indian tribes. The recommendations reflect a careful analysis of all the issues and options by the writer, in an effort to describe suggestions which will be both operable and effective for OPTS to use in working with Indian tribes.

COOPERATION AND COORDINATION AMONG AGENCIES AND OFFICES

There are several different agencies that work closely with Indian tribes in environmental issues. These include the Environmental Protection Agency (EPA), the Indian Health Service (IHS), the Bureau of Indian Affairs (BIA), the Department of Agriculture (USDA), and the Forest Service (USFS.) It is beneficial for all to work together as closely as possible to facilitate environmental progress with tribes.

Studies, surveys, and programs developed by one agency can often benefit others, thus saving time and money. Agencies such as the BIA and IHS which have been active on reservations for a number of years have collected data and first hand experience which they are willing to share with EPA staff. Representatives of the USDA and USFS have expressed a desire to work more closely with EPA on tribal lands.

The Division of Wastewater Treatment in the Office of Water works closely with IHS in collecting data, preparing reports, and

implementing programs. This relationship is a good example of how two agencies can work together to the advantage of all (26).

USDA has suggested that OPP participate in the activities of the Inter-tribal Agriculture Council, using its newsletter as a means to distribute pesticide information to agricultural tribes (26).

Often when agencies do not communicate and work together they needlessly duplicate each others' work; and sometimes unintentionally interfere with one another. An Arizona tribe complained that BIA's rules prevented the implementation of EPA initiatives, while EPA regulations prevented the successful operation of BIA programs (27).

(It is suggested that agencies cooperate in working on tribal issues; not that agencies work with each other instead of directly with the tribes. This is in no way intended to undermine direct government-to-government relations between EPA and tribes.)

OPTIONS:

1. A liaison person can be established to keep the agencies informed of each others' activities and to help coordinate activities.

2. Each agency can be responsible for informing other agencies about their activities via letters, phone calls, meetings, or monthly calendars.

3. The example of inter-agency cooperation provided by the Division of Wastewater Treatment and IHS can be used as a model for OPTS.

4. An inter-Agency meeting can be initiated by OPTS and OFA to discuss cooperative efforts on Indian lands.

RECOMMENDATION: That OPTS contact the Division of Wastewater Treatment in OW and use its relationship with IHS as a model. That an inter-agency meeting be held with Indian coordinators from each agency, and that each agency designate a person to act as a liaison with the other agencies in order to facilitate better communication and cooperation.

FUNDING FOR ENVIRONMENTAL PROGRAMS ON INDIAN LANDS

There is an insufficient amount of funding available at this time for tribes to adequately design, implement, and manage environmental programs. According to the Indian Workgroup Discussion Paper ("Administration of Environmental Programs on

Indian Lands", OFA, 7/1983) it can be expected that facilitating Indian tribes in setting up their own environmental programs will reduce long-term EPA expenditures but will increase short-term costs. It is to be expected, therefore, that during these initial stages of program development more funding will be necessary. The 3% allocation now in existence is considered by most tribes and regional coordinators to be too small. To base funding appropriations on the same criteria as for the states, whose programs are already established, is not appropriate. Regions are often not able to fulfill their responsibilities in working with tribes due to insufficient financial resources. Additional funding is considered essential.

The following funding needs have been identified by regional coordinators, headquarters personnel, and tribal representatives:

1. Funding for a comprehensive study of pesticides and toxic substances on Indian lands.

2. Monies for technical assistance and training.

3. Travel expense monies to provide opportunities for tribal environmental employees to attend meetings and training sessions.

4. Monies for salaries to staff the tribal environmental programs.

5. Monies for the acquisition and maintenance of necessary equipment.

Most offices have failed in the past to spend even the allotted amount for Indian tribes, partly due to the relatively small number of tribes who apply and qualify for grants and partly because tribes are not always considered a high priority by EPA administrators. Not only is a larger appropriation important but also the optimal use of funds that are available now by national offices, regions, and tribes. Funding which is not directly awarded to tribes should be used by OPTS regional and headquarters offices to conduct training programs and visit reservations.

Monies that are appropriated for tribes are not always used to optimal benefit, as occurred in the case of funds allocated to BIA to use on asbestos abatement from Indian schools (32). Bureaucratic red tape can cause delays in implementing programs, and in such cases tribes do not receive the full advantages of the allocations.

OPTIONS:

1. Indian tribes can be encouraged to lobby Congress for more money to be used for environmental concerns on Indian lands.

2. OPTS can request more money to use specifically on Indian lands.

3. OPTS can allocate a larger percentage of the money already available for states, territories, and tribes for specific use on Indian lands.

4. Programs for Indian tribes can be designed so that the full amount of available money is utilized. The Office of Water (OW) has been successful in making good use of available funds on tribal lands, and can serve as del.

5. Tribes can be encouraged to apply for grants to set up programs and receive assistance in meeting requirements.

6. When working with other agencies or distributing funds through other agencies both groups should be aware of bureaucratic problems which can interfere with optimal use of funds and act accordingly. There may be times when distributing funds directly to tribes is more feasible.

RECOMMENDATION: That OPTS encourage tribes to lobby for more money from Congress to use for environmental issues. That OPTS request more money to use in setting up programs on Indian lands, based on the pollution prevention initiative and the fact that states were initially provided with more funds to set up their programs. That the federal office encourage regional offices to use any available funding to visit reservations and talk to tribal governments about EPA and environmental issues and to conduct training sessions for tribes. That OPTS make an effort to inform all tribes about the availability of funding and assist them in applying for grants (or suggest another organization such as IHS or ITCA to help them). That OPTS examine the procedures used by OW to maximize the use of available funds.

INCONSISTENT INDIAN LANGUAGE IN OPTS STATUTES

There are discrepancies in the way different environmental acts and offices address Indian tribes, some treating them as states, some as municipalities, and some failing to address tribes at all.

There is also discrepancy in the inclusion of Oklahoma tribes and Alaskan native villages (which do not have federal reservations) in these laws.

Before the 1984 policy statement issued by EPA Administrator William Ruckelshaus, Indian tribes were often ignored or treated on an ad hoc basis. Since 1984 the various offices in EPA have begun to address Indian concerns and deal with the jurisdictional discrepancies that often interfere with program implementation. EPA offices are also making adjustments to include Alaskan native villages and Oklahoma tribes, according to the Alaska Native Claims Act (P.L. 92-203) (28). These villages and tribes do not have the same means of controlling resources, however, as reservation tribes, and will sometimes need different means of addressing issues.

The acts which OPTS is responsible for administering (FIFRA, TSCA, AHERA, ASHAA, and SARA Title III) are inconsistent in the way they treat Indian tribes. Their provisions for Indian tribes are as follows:

1. Section 23 of FIFRA authorizes EPA to enter into cooperative agreements with tribes to conduct certification and training of pesticide officers and for enforcement of pesticide regulations.

2. TSCA does not directly address tribes at all. (RCRA treats Indian tribes as municipalities, thus restricting the ability of tribes to assume responsibility for hazardous wastes.)

3. AHERA and ASHAA provide funding to the tribes through BIA.

4. SARA Title III treats tribes as states, including the Oklahoma tribes and Alaskan villages.

These inconsistencies cause confusion and frustration for the tribes and jurisdictional problems for regional staff. Region X was unable to assist one of its tribes in setting up a pesticide program when the state attorney general refused to enter into a cooperative agreement with the tribe to use its program. FIFRA did not provide a means to resolve the problem (29). The lack of adequate Indian language in certain statutes can deter the implementation of appropriate environmental actions; and until adjustments are made to include Oklahoma tribes and Alaskan villages these groups have no avenue to address environmental problems.

OPTIONS:

1. OPTS can promulgate action to have certain acts not containing clear and explicit Indian language amended.

2. OPTS can write regulations to add appropriate Indian language to those acts which do not contain it now.

3. OPTS can study those acts which contain Indian language and agree on one format to use as a model for other acts (it has been suggested that SARA Title III provides the best model (34).

4. OPTS can promulgate regulations or amendments to include Oklahoma tribes and Alaskan villages in all its statutes.

RECOMMENDATION: That OPTS use SARA Title III as a model for addressing Indian tribes. That OPTS promulgate regulations to treat tribes as states in TSCA and FIFRA and include Alaskan native villages and Oklahoma tribes in all statutes; and that it inform tribes and villages about their status and how to work with the statutes.

JURISDICTIONAL DISPUTES BETWEEN STATES AND TRIBES

In order to facilitate optimal environmental protection it is necessary for there to be cooperation between EPA, states, and tribes. But although most tribes have a fairly good relationship with the Agency many of them are involved in disputes with the states within whose boundaries they are located.

Many states have been slow to accept the sovereignty of Indian tribes, wishing to maintain jurisdiction on tribal lands. Nance v. EPA (1981) and Washington Dept. of Ecology v. EPA (1985) reinforced the Indian Self-determination Act of 1975, ruling that states did not have jurisdiction to regulate environmental activities on Indian lands. Many areas remain unclear, however, and are the cause of angry disputes between tribes and states.

One Region II tribe has been involved in a dispute with New York State concerning jurisdiction over boundary waters. Contamination from non-reservation industries are affecting reservation waters,and the tribe is fighting for the right to regulate those sources (30). In Region X another tribe is involved in a dispute concerning the right to monitor and regulate the Hanford Nuclear Waste Reservation in Washington. The site is located on tribal ceded lands which have religious significance for the tribe (31). Clarifying the ambiguous jurisdictional areas of the statutes would pave the way for smoother relations between tribes and states.

Jurisdictional disputes arose in Region VIII at the Fort Berthold reservation when EPA assisted the tribes in setting up their own pesticide program. North Dakota officials objected on the grounds that non-Indian farmers in the area would suffer as a result of the tribal program. Region VIII assisted in setting up an administrative panel discussion between state and tribal leaders, and most of the problems were resolved.

The Northwest Fishery Tribal Commission (NFTC) has been very successful in working with the state of Washington on a project called "Timber Fish and Wildlife" in order to coordinate the efforts of state, tribes, and logging industries in protecting the environment while promoting the economy. They are interested in working with other tribes and with EPA to use their experience and expertise to promote better relations in other areas.

OPTS is not in a position to force states and tribes to work together. But environmental issues do not stop at boundaries, and in order to promote sound environmental policies it is important for all three governments to work together. EPA and the OPTS should do all they can to encourage and promote better relations between states and tribes.

OPTIONS:

1. EPA and OPTS can schedule meetings which include representatives from the states and tribes, so that they can meet and discuss issues. (The Office of Water recently held such a meeting with good results) (32).

2. A panel discussion which was set up between tribe, state, and Region II proved to be very successful (33). Panel discussions such as this can be set up and led by EPA and OPTS.

3. EPA and OPTS can research jurisdictional problems and promulgate action to clarify ambiguous areas which lead to disputes between states and tribes.

4. State officials often do not understand Indian cultures, concerns, or governments. EPA regional coordinators can take a lead role in improving that understanding by inviting state environmental officials to workshops which deal with tribal concerns. They can initiate meetings and discussions between the governments and help arbitrate disputes.

5. OPTS can use NFTC as a model for tribes to work with states. They can take advantage of the video-tape and brochures which the Commission has available for other tribes to use.

6. OPTS can look at the jurisdictional issues which arose in the Fort Berthold Pilot Project in Region VIII and the way they were solved via an administrative panel discussion among tribal and state leaders.

RECOMMENDATION: That EPA and OPTS encourage states and tribes to work together by attempting to address and clarify jurisdictional questions which lead to disputes. That they conduct meetings and encourage panel discussions which include states and tribes. That regional coordinators include state officials in workshops which address Indian concerns, and include Indian officials in meetings with states. That OPTS take advantage of NFTC's offer to work with EPA and tribes to foster better cooperation with states.

PRIORITY GIVEN TO LARGER AND MORE VISIBLE TRIBES

Indian tribes which are small and non-vocal often get ignored or passed over in environmental funding and assistance activities. There does not seem to be an adequate device for dealing with low-volume environmental problems or for addressing needs which require only a small expenditure of money. Recently EPA bypassed some of the less costly and difficult environmental requests of small south-eastern tribes to fund more expensive and time-consumptive requests of larger tribes (34). In a similar situation, no channel could be found to dispose of a small amount of pesticides which had been dumped on a western reservation (35), whereas larger sites could be dealt with by Superfund.

Many tribes in the east feel that western tribes are given an unfair advantage because of political pull, especially in the Southwest where the largest reservations are located. This sentiment was expressed in the recent allotments of Clean Water funding, in which the largest tribes received the most money regardless of need. In response to the complaints of eastern tribes Wastewater Treatment allotted their funding based on a priority list of the greatest need. Those tribes which did not have the management capabilities to administer the grants were encouraged to obtain assistance from IHS.

Many of the environmental issues which exist on small reservations can be addressed with a minimal expenditure of time and money; thus preventing them from developing into major concerns. Often, however, the costs and required paperwork of the bureaucratic system make it infeasible to address them. A different set of criteria for working with small tribes and a less complex channel for handling small problems would be advantageous for all.

OPTIONS:

1. Create a special status for Indian tribes whereby their needs could be addressed regardless of size and visibility.

2. Make multi-media funding available for tribes. Multi-media funding would provide monies for small tribes to use in different environmental areas.

3. Encourage small tribes to join together in an inter-tribal organization (such as ITCA) to address environmental issues. Encourage them to consult with the inter-tribal organizations referenced above.

4. Devise some means to address small environmental issues and make the information readily available to tribes.

5. Establish a pilot project on a small tribal reservation which has problems and issues typical of small tribes.

RECOMMENDATION: That OPTS encourage the development of a means to issue multi-media funding for Indian tribes. That OPTS use flexibility in working with small tribes so as to meet their needs. That OPTS encourage tribes to form inter-tribal organizations and assist them in doing so. That OPTS establish a pilot project on a typical small tribal reservation.

PRIORITY GIVEN TO TRIBES WHICH UNDERSTAND EPA AND KNOW HOW TO WORK IN THE SYSTEM

Many Indian tribes, particularly small and less economically developed ones, do not know how to apply for help from EPA; and as a result their needs are often not met. They are not on the mailing lists for meetings and training sessions, do not know how to apply for grants, and are not included in programs. It is admittedly more time and resource-consumptive to work with these tribes. In the long run, however, it will prove beneficial to introduce them to the goals and activities of EPA and provide them with the training necessary to begin developing environmental protection strategies for their reservations. This is in line with the present Administrator's pollution prevention policy.

OPTIONS:

1. Have regional coordinators identify those tribes which do not have working relationships with EPA and make arrangements to visit the reservations and speak to the governing bodies about environmental concerns and solutions.

2. Hold regional meetings and encourage those tribes not currently interacting with EPA to attend and participate. Provide funding for travel when necessary.

3. Identify environmental problems which are specific to these tribes and address responses and solutions which are relevant and feasible for them.

RECOMMENDATION: That OPTS encourage regional Indian coordinators to identify those tribes which do not actively work with EPA and establish contact with them (preferably by making personal visits to the reservations.) That they inform these tribes about the Agency and Office, about current issues, and about how to apply for help and set up programs (this can be done via video-tapes). That OPTS make sure that all tribes are notified about meetings and workshops and the importance of attending them,and provide travel money for tribal representatives when necessary. That specific issues which are relevant to their needs be addressed in order to enlist tribal interest.

TRAINING FOR HEADQUARTERS PERSONNEL

Management personnel who work with policy and program development at Headquarters in Washington DC need to become more aware of Indian cultures and more sensitive to their needs. Attention was drawn to this problem by a member of senior management in one of the OPTS offices, who described the additional time and work required to re-address the Indian issue in distributing allotments to work with endangered species. He explained that at the beginning of the project he had not understood that Indian tribes were separate from states; and monies were to be given to the regions to distribute to states, which could then distribute them to tribes. After receiving complaints from ITCA he had to re-examine the issue and make changes accordingly. In the revised form the term state was used as a geographical area only; not as a political entity. Had he been trained to understand Indian policy initially this additional work could have been avoided.

That there is a lack of understanding of Indian cultures and needs at Headquarters has been brought up by tribal representatives as well. A speaker for a Region IX tribe used as an example a suggestion from Headquarters to take a bus to visit the small communities on his reservation, demonstrating a lack of knowledge about the size and inaccessibility of the reservation lands.

Many of the staff working in Washington DC who are informed about the Indian tribes in the western states are unaware of the problems and needs of eastern tribes which are located in Regions I, II, IV, and V. Members of these tribes often feel that their needs are placed second to the needs of western states and that they receive less assistance and funding than their western

counterparts. This feeling was reiterated by one of the regional Indian coordinators.

Several successful workshops have been held to inform management about Indian tribes. In 1989 the Office of Federal Activities held a "Scholars' Program"; a three-day training session for specialized personnel to provide technical assistance on reservations (36). The Office of Water conducted a training program entitled "Working with Tribal Governments Effectively" in April 1989 for OW management and staff. They invited speakers from various tribes to come to Washington DC to speak on a variety of topics (37). Region V coordinated with the Great Lakes Fish and Wildlife Commission to hold a day-long "Orientation to Indian Country" to inform EPA staff about Indian history, culture, and environmental capabilities (38). These workshops are good examples of the kinds of training needed for OPTS management and staff.

OPTIONS:

1. Conduct a special training workshop, several days long, in Washington DC for OPTS management and staff. Invite speakers from various Indian tribes in different parts of the country.

2. Conduct several short training sessions, perhaps in conjunction with other meetings in Washington DC.

3. Conduct a special training workshop somewhere in Indian country, in conjunction with the region in which it is held. Have the OPTS management and staff visit one or more reservations in order to actually experience Indian country.

4. Recommend that OFA produce a video-tape or series of videotapes and/or manuals which will explain Indian concerns and needs.

RECOMMENDATION: That OPTS sponsor a workshop to train headquarters administration and involved staff in working with Indian tribes. That they examine formats from previously held workshops and incorporate successful elements. That OPTS recommend the production of a manual or video-tape on Indian concerns for new employees to read or view.

TRAINING FOR REGIONAL PERSONNEL

Regional Indian Workgroup Coordinators and other regional staff who work with tribes often approach their jobs with no previous training in Indian history, culture, or problems. As a result they are not in a position to understand or facilitate the tribes as environmental issues develop.

Several of the regional Indian Workgroup Coordinators, as well as other regional staff, have expressed a need for training similar to that conducted in Region V. In addition to a broad orientation in Indian culture, more specific training sessions are needed in such issues as tribal jurisdiction, inter-government communication, and region-specific tribal issues. The issue of pesticides and toxic substances on Indian lands needs to be addressed in training sessions as well.

Indian leaders and environmental personnel have conveyed their feelings that a lack of knowledge and understanding on the part of regional staff often acts as an impediment to successful environmental program implementation.

EPA regional staff and tribal representatives have brought to attention the lack of congruity that exists in the way different regions interact with tribes. Inter-regional training sessions in Indian issues would help to alleviate this incongruity by exposing all regional personnel to the same information and techniques. It would also provide an opportunity for regional coordinators and staff to exchange ideas and suggestions. Regional training sessions could be conducted using an approved format which would be region-specific but also uniform in certain aspects.

OPTIONS:

1. Conduct an orientation to Indian tribes for new Indian Workgroup Coordinators and other regional staff who work with tribes. This could be in the form of a workshop, an individual training session, a video-tape, or a text.

2. Hold regularly scheduled national training sessions in Washington DC for all regional staff who work with tribes in pesticides and toxic substances. These could be held in conjunction with training for Headquarters personnel.

3. Hold regularly scheduled nation-wide training sessions in the regions for regional personnel who work with tribes in pesticides and toxic substances. These workshops could be held in the regions that contain Indian tribes and could be coordinated by the regions where they take place.

4. Hold regional workshops which are region-specific to train personnel about the tribes, issues, and problems that exist concerning pesticides and toxic substances in their region. Invite Indian speakers from tribes in that region, as well as outside resources. Use a general nation-wide format which promotes inter-regional congruity while focusing on regional distinctions.

RECOMMENDATIONS: That OPTS hold regularly scheduled training sessions for regional staff who work with tribes. These could be held in conjunction with workshops for headquarters staff. Basic important issues would be reiterated at each workshop as reenforcement for experienced staff and as introduction for new staff. New issues would also be addressed, and regional personnel would be given the chance to discuss these issues and specific regional problems together. That a video-tape and accompanying tape be provided for new regional employees (particularly for new Indian Coordinators) and that they be encouraged to consult with people who are knowledgeable about Indian tribes.

INTER-REGIONAL UNIFORMITY IN TREATING INDIAN CONCERNS

There is a need for a more uniform approach in working with Indian tribes across the country. This need had been pointed out by Indian Health Service representatives who work with tribes in different regions. They have noticed that Indian Workgroup Coordinators in certain regions are very well informed and sensitive to the needs of the tribes, while others seem to be hardly aware of their existence.

Tribal representatives have also commented on the difference in the way regions treat tribes. Some reservations cross regional boundaries so that these tribes have to work with two or more regional offices. They have first-hand experience in the varying approaches and levels of involvement by Indian coordinators. Tribal members also compare the activities that take place in different regions and point out those regions which are more actively involved in working with tribes.

It is to be expected that regions which have higher Indian populations will have more active involvement with the tribes. There appears to be a great deal of discrepancy, however, in regions with similar Indian populations. And it is important, even in regions with low Indian populations, that Indian coordinators be knowledgeable and sensitive to Indian concerns.

There is also a difference in the kind and extent of problems on Indian lands which involve the Office of Pesticides and Toxic Substances. Tribes in certain regions have forestry, cattle-raising, or agricultural lands which use large amounts of pesticides. Tribes in other regions are adjacent to industrial areas and have more exposure to toxic substances. It is to be expected that coordinators in regions whose reservations have fewer environmental problems will have less involvement with the tribes. But again, it is important for these coordinators and staff to be knowledgeable and sensitive to those concerns that do exist.

Regional Indian Workgroup Coordinators have expressed a desire to have a better networking system with other regions. It has been

suggested that a document be compiled which describes the environmental problems which various regional coordinators have had to contend with, so that other coordinators can contact them and discuss solutions.

It is recognized that some regional autonomy and diversity are desirable in order to deal with the individual problems that each region encounters. More contact and cooperation between the regional coordinators and staff regarding pesticides and toxic substances on Indian lands would lead, however, to better programs in all of the regions.

OPTIONS:

1. Establish a set of guidelines to be used in all the regions in working with Indian tribes. Promote the use of these guidelines in inter-regional and regional workshops.

2. Encourage Indian Workgroup Coordinators and other regional staff members who work with tribes to exchange ideas and suggestions at meetings and by mail and telephone correspondence.

3. Compile a list of tribes by region along with the environmental concerns that regional personnel have been dealing with. Make this list available to all regional personnel.

RECOMMENDATION: That OPTS encourage inter-regional communication at meetings and through correspondence. That OPTS and OFA set guidelines for regions to use in working with tribes and make these guidelines available at national meetings and through a printed manual.

INSUFFICIENT INFORMATION REGARDING PESTICIDES AND TOXIC SUBSTANCES ON INDIAN LANDS

There is an insufficient amount of data available concerning the use of pesticides and toxic substances on Indian lands. A need for some kind of study of these areas has been brought up by regional and headquarters staff, as well as by tribal representatives. A survey of pesticide use was recommended by the National Indian Workgroup and at the Tribal Inspectors' Training Workshop in Phoenix. The Office of Compliance Monitoring (a division of OPTS) has completed a proposal for a "Study of Pesticide Use on Tribal Lands" to be conducted from Fall 1990 through Summer 1992. The proposal includes a time schedule, a budget, and several products which will result from the survey. This proposal will be submitted to EPA as a Pollution Prevention Project.

OPTIONS:

1. Conduct the study of pesticides according to the proposal submitted by the Office of Compliance Monitoring.

2. Design a different format for conducting a national study of pesticides on Indian Lands, to be funded in a different way.

3. Have each region conduct its own study of pesticides according to a national standard set by OPTS.

4. Design a format to conduct a nation-wide study of toxic substances on Indian lands. This would include a study of asbestos, PCBs, lead, and toxins originating from landfills, etc..

5. Have each region conduct its own study of toxic substances according to a national standard set by OPTS. (A study of toxic substances was recently conducted by Region V.) (39)

RECOMMENDATION: That OPTS conduct a study of nation-wide pesticide use on Indian lands according to the proposal submitted by OCM. That any regions not included in the study but containing Indian lands conduct surveys of pesticide use on reservations in their regions. That a study of toxic substances similar to that conducted by Region V be conducted in all regions containing Indian lands.

INTER-TRIBAL AFFILIATIONS

Inter-tribal affiliations such as the National Congress of American Indians (NCAI), Council of Energy Resource Tribes (CERT), Northwest Fisheries Tribal Commission (NFTC), Inter-tribal Agriculture Council (IAC), and Inter-tribal Council of Arizona (ITCA) have proven to be beneficial to the tribes involved. The ITCA has been particularly helpful for those tribes which do not want to have their own pesticide and toxic substance programs. Such associations can provide instruction in grant-writing, setting up and conducting environmental programs, and in providing legal and technical advice. They can act as a liaison between tribes and state and federal governments and can represent the tribes in various issues. They can serve as a focal point for grant monies to be distributed to the tribes in the organization of programs and can help provide environmental services directly.

Several Indian Workgroup Coordinators have expressed the opinion that a regional intertribal affiliation would be of benefit to tribes in their regions, particularly small tribes. Many tribal representatives not belonging to inter-tribal associations have also expressed an interest in forming one in their area. The

Region IX coordinator, in whose region the ITCA is located, speaks favorably of this organization, as do personnel from other agencies and from Headquarters.

The Inter-tribal Council of Arizona has participated in setting up a national Indian workshop and has provided information for other tribes in the form of brochures. They have expressed a willingness to provide advice and assistance in helping Indian tribes in other states and regions set up similar organizations.

The US Department of Agriculture has worked with tribes to establish the Inter-tribal Agriculture Council, whose headquarters are located at the Fort Hall Reservation in Idaho. It consists of 80 tribes which participate in agriculture; and as part of its service it publishes a newsletter which it sends to its members. The Northwest Indian Fishery Commission in Washington serves a similar purpose for tribes which engage in fisheries. It facilitates tribes in developing an integrated environmental approach.

OPTIONS:

1. Encourage tribes to form inter-tribal affiliations that will facilitate the development and maintenance of environmental protection strategies, including pesticides and toxic substances.

2. Provide advice and funding to help tribes establish inter-tribal organizations.

3. Encourage tribes to seek advice and assistance from the organizations mentioned above, or from other inter-tribal groups, and provide as much assistance as possible in facilitating their progress.

RECOMMENDATION: That OPTS provide encouragement and assistance to tribes in setting up cooperative organizations for working with pesticide and toxic substance concerns. That OPTS facilitate inter-tribal organizations such as those referenced above in working with tribes (specifically, that OPTS direct tribes to organizations which would be appropriate to their needs and provide assistance and funding for their development.)

IMPROVING INDIAN UNDERSTANDING OF EPA AND OPTS

Many Indian tribes, especially those who have not worked with EPA in the past, do not understand the goals and procedures of the Environmental Protection Agency and the Office of Pesticides and Toxic Substances. In order to help them successfully implement and maintain environmental programs, it would be beneficial to provide training in the way the Agency and OPTS work.

The National Congress of American Indians recently received a grant to train tribes to work with EPA. They compiled a handbook called "Environmental Protection in Indian Country: A Handbook for Tribal Leaders and Resource Managers". It provides an overview of the Agency,its offices, and its regions; and explains in simple terms how they work. It describes the environmental acts and how they relate to Indian tribes, and gives advise on how to work with the offices and regions of EPA in order to qualify for its funding and set up programs. NCAI also put on a workshop to assist tribes in using the book.

Other national and regional meetings have attempted to facilitate tribal/Agency relations by explaining how EPA works, and Indian Workgroup Coordinators have worked with tribes individually to assist them. Just as EPA staff needs to be more cognizant of tribal cultures and governments, tribal governments need a clearer understanding of EPA and OPTS.

OPTIONS:

1. Provide funding for the NCAI to conduct more workshops to train Indians to work with EPA. Target these workshops for tribes that did not attend the last one,and for tribes who have not worked with the Agency before but who have expressed an interest in doing so in the future.

2. Set up some other means of distributing and using copies of the handbook, such as a correspondence course. Giving out copies of the handbook without some form of personal interaction in going through the chapters is not felt to be sufficient for most tribes, as the tendency would be to neglect reading it.

3. Provide training to assist tribal leaders in working with EPA and OPTS through regional workshops and meetings. Specifically address issues relating to FIFRA, TSCA, SARA Title III, AHARA, and ASHAA.

4. Encourage regional Indian Workgroup Coordinators to travel to the reservations and explain the procedures of EPA and OPTS to the tribal governments.

5. Produce a video-tape or series of video-tapes that explain the goals and activities of EPA and OPTS to Indian tribes. They should cover EPA regulations, tribal responsibility, and the assistance they can receive through the various government agencies.

RECOMMENDATION: That OPTS encourage the distribution and use of the Handbook developed by NCAI on Indian lands. That workshops and video-tapes be developed to facilitate tribes in understanding EPA

and OPTS. That those tribes who have not have had experience in working with EPA be targeted.

TECHNICAL ASSISTANCE AND TRAINING

There is a pressing need for more technical training and assistance on reservations. This need has been pointed out by tribal environmental personnel and regional coordinators nation-wide. Tribes need assistance in monitoring sites and conducting laboratory tests. Tribal technicians need training to learn how to conduct tests and use equipment. Some tribes need help in setting up laboratories of their own.

EPA has begun to address this problem by sending circuit-riders to various reservations to give assistance. The Office of Federal Activities recently held their "Scholars' Workshop" to train people with technical expertise to work on Indian lands. The Inter-Tribal Council of Arizona in conjunction with the Office of Pesticide Programs recently held a "Tribal Inspectors' Training Workshop" which offered technical training in pesticide regulation; and OPP is planning a seminar to train tribal leaders in setting up applicator programs (40).

In Region IX video-tapes which present technical training in pesticide application are being developed in the Navajo language. Similar tapes can be produced in other technical areas for tribes where language may be a barrier to understanding important materials.

Few tribal employees have received previous training which would qualify them for technical environmental work. In order for tribes to accurately monitor sites and regulate pesticides and toxic substances it is essential for them to receive appropriate assistance and training.

OPTIONS:

1. Make optimal use of the circuit-riders and Scholar Program participants by having them visit as many reservations as possible to provide technical assistance.

2. Continue to schedule training workshops which provide technical training for tribal employees.

3. Encourage regional coordinators to schedule technical training and provide technical assistance when possible.

4. Make more monies available for technical assistance to tribes.

RECOMMENDATION: That OPTS recognize the need for more technical assistance and training for Indian tribes and provide adequate

funding and FTEs to answer this need. That circuit-riders and other personnel address issues of laboratory testing, monitoring sites, using equipment, and cleaning up toxic sites safely.

COMMUNICATION BETWEEN HEADQUARTERS, REGIONS, AND TRIBES

A great deal of time and expense are devoted to communications between EPA headquarters, regional offices, and Indian tribes. In order for environmental initiatives to be carried out it is essential to maintain an active communication system. There are some gaps, however, in communications between the national office and regional offices; and significant problems in communicating with the tribes.

With this in mind OFA produced the "EPA Indian Communications Plan" (April 1989.) This plan provides a framework for the development and implementation of a communication system between EPA national and regional offices and Indian tribes. It identifies the Indian Workgroup Coordinator as the initial point of contact for the tribes and charts the preferred communication flow. It identifies primary (face-to-face, telephone. and written), secondary (video-tape and news media) and multiple methods of communication. It defines the duties of communicators and nine steps of action to take in implementing the plan.

If utilized this plan would improve communications between EPA national and regional offices and Indian tribes. There are indications, however, that the plan is not being fully utilized at present. Senior management at headquarters has expressed doubt about its implementation and indicated that it is being used only peripherally. Regional coordinators have relayed a need for more follow-through on the plan. It has been emphasized again and again that the best method of communication with tribes is face-to-face contact. Because of the number of tribes and the inaccessibility of many of them it is impossible to conduct all communications by this method. In making initial contacts, however, and setting up new programs it is essential to meet with tribal representatives in person, preferably by visiting the reservation or village. Inviting tribal members to attend meetings and training sessions is a good second option.

As a follow-up to initial contact regular visits to reservations and meetings should be scheduled, at least once a year with each tribe. Meetings should include regional and headquarters staff to promote communications between all the offices.

Telephone calls are considered the next best method of contact. Because this form of correspondence is less expensive and time-consuming it can be conducted on a more frequent basis. It is important that tribal personnel know who to call when they have questions or problems. Indian coordinators should act as liaisons with other offices, so that tribes can direct all regional

questions to them. They should be accessible and should encourage telephone communications. There should be a headquarters number tribes can call as well when they need to contact EPA in Washington DC (41).

EPA conducts tele-conferences with tribes approximately every two weeks. These conferences allow tribes and offices to exchange information and ideas and conduct discussions. While they do not take the place of actual meetings they form an excellent communication aide. OPTS should make all tribes aware of this communication system.

Mailings are a third means of communication with tribes, but in order for this method to be successful it is important to look at certain issues. Mailing should, if possible, be used only after contact is established through other means. Other agencies and offices report a noticeable lack of response from tribes when they use this method of communication. Some of the reasons follow:

1. Literature sent out from headquarters and regional staff to tribes often fails to arrive on the right desk, and may sit unopened and unattended to for weeks. It is important to keep mailing lists up-dated, with names and addresses not only of tribal chairmen but also of the appropriate environmental contacts. A complete list of tribes, tribal leaders,and some environmental contacts is available from OFA (42), and a partial list of tribal environmental contacts from ITCA (43).

2. Important mailings to tribes are often over-looked due to the voluminous amount of information that EPA distributes. Most tribal environmental programs are small (many have a staff of one) and do not have time to sort through the various documents that arrive on their desks. At least one tribe in Washington failed to recognize or receive important information on funding for wastewater treatment, and cited this as the probable cause.

Video-tapes, tribal radio stations, and inter-tribal and tribal newsletters are alternative means of communication which OPTS can use to transmit information to Indian tribes. The NCAI and the IAC publish newsletters in which environmental articles could be included.

Several Indian tribes have suggested the formation of a "Tribal Environmental Program Managers' Association" which would serve as a kind of clearinghouse for environmental information. This organization would assist EPA in coordinating and distributing information to tribes and act as a liaison in communications between tribes and the Agency These tribes have written resolutions addressing the formation of such a group (44). Other tribes have suggested the formation of an Indian Office in Washington DC to serve this purpose.

OPTIONS:

1. Staff working with Indian tribes at the national and regional offices can be encouraged to study and use the OFA communications plan.

2. Activities can be designed as a follow-up to the plan to promote its use.

3. A study could be conducted to track information from headquarters through the regions to the tribes to find out how well the plan is working and where it is breaking down. This could be done by sending information about a workshop, etc. to the regions to distribute to the tribes. The study could include finding out how many of the correct tribal contacts received the information, how many responded, and if it was not received, where the information stopped.

4. OPTS can use the tele-conference system of communication when inter-tribal and inter-office exchange are desirable.

5. Inter-tribal and tribal newsletters and radio stations can be used to reach tribal members and relay information.

6. An organization similar to that described above as a " Tribal Environmental Program Managers' Association" could be formed to promote communications and distribute information.

7. An Indian Office could be established in Washington DC to serve the communication and other environmental needs of Indian tribes.

8. Have Regional Indian Workgroup coordinators make sure they know the appropriate environmental contacts on all the reservations in their region. Ask those tribes who do not have a designated contact to appoint one.

RECOMMENDATION: That the suggestions made in the EPA Indian Communication Plan be utilized more fully throughout the regions and headquarters. That a study be conducted to monitor the success of the plan and to pinpoint areas of communication breakdown. That once these areas are identified there be a follow-up to improve them. That regional Indian Workgroup coordinators ask all tribes that do not have a designated EPA contact to appoint one. That travel money be made available to facilitate face-to-face communications in the form of visits to reservations. That OPTS take advantage of tribal and inter-tribal newspapers to communicate

with Indian tribes. That OPTS encourage OFA to investigate the feasibility of establishing a clearinghouse for environmental information such as that suggested above, and consult with those tribal officials who have submitted resolutions to that affect.

THE USE OF ALTERNATIVE FARMING METHODS

Many Indian tribes are reluctant to use pesticides because of the damage they can do to the environment. A tribal council in Arizona recently voted against the use of herbicides on their rangelands despite the chance for improved productivity. Several tribes have banned aerial spraying. According to the tribal coordinator for USDA there is an increasing concern among Indian tribes about the harm which pesticides can do to their land, air, and water. The tribal representative for the US Forest Service emphasized this as well. He related that many tribes are unaware of the environmental harm which can result from the use of pesticides; that EPA labels do not fully transmit this risk. He felt that some of these tribes would opt not to use pesticides if they were fully aware of the potential harm.

The USDA, ITAC, and tribal representatives all expressed an interest in the development of non-chemical pest control. They felt that the philosophy and methods offered by organic farming or integrated pest management would be well-received by many tribes and advantageous to them.

Integrated pest management is a program that promotes low input sustainable agriculture. It uses a holistic approach, looking at supply and demand and marketing as well as the actual farming techniques. It uses such alternatives as crop rotation to prevent the development of pests, predator control of pests, bio-technological control of pests by affecting fertility and reproduction, co-planting of certain crops to intercept pest development, and timed plantings which avoid periods of heavy pest infiltration. Chemical pesticides are used when alternative methods are not effective (45).

Organic farming concentrates on the production of agricultural products in an environmentally safe way. It uses only those pesticides which have been approved for organic food. The use of IPM or organic farming by Indian tribes would not only decrease the risk of pesticide contamination on reservation lands and produce safe food for tribal members; but could also answer an increasing nation-wide demand for safe food products. The marketing potential of organic food or non-food products (such as decorative Indian corn or gourds) grown by American Indians could be explored. It could prove to be a viable source of income which is compatible with Indian environmental ethics.

The IPM Division of OPP has expressed interest in the promotion of this program on Indian lands. They have suggested

inter-agency cooperation with BIA and USDA in implementing the project. Discussions with office representatives have resulted in the following ideas: setting up a pilot IPM agricultural project on a reservation farm; introducing the concept and methods of IPM in the schools; and conducting workshops to introduce tribes to IPM philosophy and methodology.

Integrated pest management is also a viable alternative in forestry operations and in controlling rats and cockroaches. These possibilities could be useful to reservations which are not involved in agricultural activity.

OPTIONS:

1. Set up a pilot project using organic and/or IPM farming methods on a reservation farm. Choose crops according to local need or marketing potential and compatibility with the local environment (water supply, soil, potential pests.) Employ such methods as crop rotation, predator control, co-planting, timed plantings, and bio-technology.

2. Offer training sessions for tribal personnel who work in agriculture. Introduce them to the philosophy, advantages and disadvantages, and methodology of IPM and organic farming.

3. Produce a video-tape and manual which introduces tribes to the concepts and methods of integrated pest management or other alternative approaches.

4. Set up a program to be taught in the schools which introduces the concepts and methods of integrated pest management or other alternative approaches.

5. Introduce tribal members to the non-agricultural possibilities of IPM and other non-chemical pest control. These include roach and rodent control and forestry techniques.

RECOMMENDATION: That OPTS initiate a program (possibly in conjunction with USDA and BIA) to introduce Indian tribes to the alternative pest control options offered by integrated pest management and organic farming. This program would include the use of manuals, video-tapes, and workshops. That OPTS initiate a pilot project in integrated pest management by using these methods on a reservation farm (such as the Navajo Farm at Farmington.)

PILOT ENVIRONMENTAL PROJECTS

In 1985 EPA initiated four pilot projects to work in different environmental areas on Indian reservations. These included:

1. The Menominee Tribe in Region V
2. The Three Affiliated Tribes at Fort Berthold, in Region VIII
3. The Navajo Nation in Regions IX
4. The Confederated Colville Tribes in Region X.

The project at Fort Berthold in North Dakota includes pesticide applicator certification, cleaning up two pesticide dump sites, performing a ground-water survey for pesticide contamination, drilling wells to monitor subsurface waters where pesticide containers have been dumped, and monitoring surface waters in agricultural areas.

Objections to the project were received from the attorney general and the governor of North Dakota as well as from non-Indians living and farming on reservation lands. Questions of jurisdiction and fairness to non-Indians were raised. The tribes responded by establishing an administrative panel to hear appeals, and complaints by non-Indians have subsided.

OPTIONS:

1. That these pilot projects be used as models for OPTS in implementing programs on Indian lands (particularly the Fort Berthold Project.)
2. That OPTS take advantage of the mistakes made in the pilot projects in order to avoid similar mistakes in future projects.
3. That OPTS initiate other pilot projects in areas relating to pesticide use and toxic substance regulation; a pilot project on a small tribal reservation being particularly recommended.

RECOMMENDATION: That OPTS take advantage of the experience and knowledge gained in the above-mentioned pilot projects by studying the results and acting accordingly. That OPTS focus on the development of good relationships between Indian and non-Indian concerns in the Fort Berthold project. That OPTS instigate another pilot project to test new initiatives and concerns not only with pesticide use but also with the control of toxic substances on Indian lands.

VOLUME AND COMPREHENSIBILITY OF EPA CORRESPONDENCE TO TRIBES

Tribal members from Arizona, New Mexico, and Washington have complained about the great volume of correspondence they receive from EPA. While some of the larger environmental programs may have staff who can sort through and interpret this material, most tribal environmental programs are composed of one or a few staff members who have neither the time nor the expertise to study and interpret all of EPA's literature. As a result it often gets set aside without receiving adequate attention.

Letters about meetings, information about applying for grants, and other important correspondence often get lost in the shuffle. Documents which describe programs and regulations are ignored because of their length and technical language. As a result there is a critical breakdown in communication.

A carefully-worded introductory letter could briefly explain the relevance of the document and outline the main points in clear, easy-to-understand language. This would enable tribal environmental workers to quickly distinguish those items that are relevant to them, to prioritize their reading, and to gain a general understanding of EPA activities without spending unreasonable amounts of time.

OPTIONS:

1. The national offices (such as OPTS) can designate a person to formulate and attach introductory letters specifically addressing Indians to all their mailings.

2. Correspondence from the various offices can be filtered through OFA, which can attach introductory letters.

3. Correspondence from the headquarters offices can be filtered through the regional offices. Regional coordinators can attach letters which relate the material to regional issues or even to individual tribal issues.

RECOMMENDATION: That each office designate a specific person to compose introductory letters to explain and briefly outline the main points of its mailings for Indian tribes. Mailings which are specific to regions or tribes can be handled by the regional Indian Workgroup Coordinators.

NON-RESERVATION TRIBES

There are some federally-recognized Indian tribes that do not have reservation lands. These include Oklahoma tribes, Indian villages in Alaska, and certain other groups such as the Klamath tribe in Oregon. Working with environmental issues and getting

federal funding for environmental programs require special procedures for these groups, and there are often legal complications which interfere with successful implementation of the EPA policy. Many of the statutes are not written to include these groups, and most federal and tribal governments are unclear about how to work together. Headquarters staff, regional Indian workgroup coordinators, and tribal representatives of non-reservation groups have expressed a strong desire to have jurisdictional and legal ambiguities clarified. Until this is done many of these tribes can not set up environmental programs or effectively deal with environmental issues.

OPTIONS:

1. Appoint a person or committee to learn more about the legal status of non-reservation tribes.

2. Inform regional coordinators and tribal leaders about the results of the study.

3. As a result of the study promulgate necessary action to address those problems can not be handled through existing channels.

RECOMMENDATION: That a study be conducted to clarify the status of non-reservation tribes, that regions and tribes be informed of the results, and that action be taken to address the problems discovered in the study.

CONCLUSION

The Office of Pesticides and Toxic Substances and other Offices in EPA are moving forward in the implementation of the Agency's new policy for Indian tribes. Many positive steps have been taken, and the results can be seen as tribes begin to set up and manage their own environmental programs. Projects such as the Fort Berthold pesticide program demonstrate that EPA and tribes can work together effectively. Multi-tribal coalitions such as the Inter-Tribal Council of Arizona show the effectiveness of organized Indian tribes working to address environmental concerns. National and regional offices are engaged in activities which reflect the new impetus on Indian lands. There are still many issues to be addressed, however, and problems to be solved before tribes can take full control of their own environmental programs.

These issues have been discussed in the previous pages and some options and recommendations for addressing them have been developed. The solutions are seldom quick or easy. Some require time-consuming studies; some need many hours of work-time; others call for large expenditures of money. None of these things are readily available, but must be set aside from already existing programs. New regulations and amendments must be promulgated through legal channels which require extensive time and paper-work. The recommendations discussed here require the efforts of the people in headquarters, in the regions, and in the tribes. Complete success is not possible without the cooperation of other agencies, offices, and state environmental programs. The assistance of inter-tribal organizations can be of great benefit as well.

It is apparent that many of these concerns need to be resolved; and it is evident that OPTS has a commitment to do so. The options and recommendations described in this paper provide several avenues for approaching the problems and fulfilling this commitment. It is to be hoped that the relationship between Indian tribes and the Office of Pesticides and Toxic Substances will continue to develop in a positive way as these issues are addressed.

FOOTNOTES

1. Inter-Tribal Council of Arizona, 4205 N. 7th Avenue, Suite 200 Phoenix AZ 85013. (602)248-0071. See Appendix I.

2. National Congress of American Indians. 45th Convention Walk-through, 3/8/89. See Appendix II.

3. Council of Energy Resource Tribes. (303) 832-6600. See Appendix III.

4. Northwest Fisheries Tribal Commission. 6730 Martin Way E Olympia WA 98506. (206)438-1180 or FTS 434-9476. See Appendix IV.

5. Inter-tribal Council of Agriculture. Box 405 Fort Hall Idaho 83203 (208)238-3870. Lonnie Racehorse, Secretary. See Appendix V.

6. Contact Herman Fischer, BIA Asbestos Abatement. (FTS) 474-2454.

7. EPA Report to Congress: Indian Wastewater Treatment Needs and Assistance, January 1989. See Appendix VI.

8. Nance vs.EPA. 645 F.2d 701 (9th Circuit 1981).

9. "EPA Policy for the Implementation of Environmental Programs on Indian Lands, William D. Ruckelshaus, Administrator". November 8, 1984. See Appendix VII.

10. "Interim Strategy for Implementation of the EPA Indian Policy" November 1985, OFA OEA. See Appendix VIII.

11. "Survey of American Indian Environmental Protection Needs on Reservation Lands: 1986, by Americans for Indian Opportunity. September 1986 OFA. See Appendix IX.

12. "Environmental Handbook for Tribal Leaders and Resource Managers", by National Congress of American Indians. 1988. See Appendix X.

13. "EPA Indian Communication Plan and FY 89 Implementation Strategy". April 1989 OEA, OFA. See Appendix XI.

14. "Environmental Protection Agency Indian Policy and Recent Legislation Developments" by Eric D. Eberhard (Senate Select Committee on Indian Affairs.) Washington DC, 1989. See Appendix XII.

15. Tribal Inspector's Training Workshop, contact ITCA at (602-248-0071 or OPP.

16. "Consolidated Pesticide Cooperative Agreement Guidance. FY90. See Appendix XIII.

17. "Study of Pesticide Use on Tribal Lands" FY91 OPTS,OCM. See Appendix XIV.

18. OW Meetings. See Appendix XV.

19. Contact Chris Powers, Wastewater Treatment (OW) 382-3770.

20. WA Dept. of Ecology vs. EPA. 752 F. 2d at 1465 (9th Circuit 1985).

21. Diagram of OPTS. See Appendix XVI.

22. Diagram of OPP. See Appendix XVII.

23. Diagram of OTS. See Appendix XVIII.

24. OTS Title 3 Fall 1989. Seattle, Denver, Phoenix.

25. Diagram of OCM. See Appendix XIX.

26. Contact Lonney Racehorse, Secretary IAC; (208) 238-3870.

27. Contact Louise Lincoln, Navajo EPA. Window Rock AZ.

28. Alaska Native Claims Act (P.L. 92-203).

29. Contact Gretchen Hayslip, Indian Coordinator for Region X; (FTS) 8-399-38512 .

30. Contact Ken Jock, St.Regis Mohawks, New York (518) 358-2272.

31. Contact Mr.Delano, Yakima Tribe, Washington (509) 865-5121.

32. National Meetings on the Clean Water Act Programs for Tribes, June 7, 1988. Denver Colorado. See Appendix XX.

33. Contact Karen Fornstein, OW 382-5681.

34. Contact Arthur Linton, Indian Coordinator for Region IV (FTS) 8-257-3776.

35. Contact John Serey, IHS Representative for EPA Region X (503) 221-2001.

36. Scholars' Program, 1989. OFA.Washington DC.

37. "Working With Tribal Governments Effectively", OW. See Appendix XXI.

38. "Orientation to Indian Country", Region V.

39. Region V Study of Toxic Substances. Contact Casey Ambutas (FTS) 8-353-1394.

40. OPP seminar on pesticide applicator programs. See Appendix XXII.

41. Possibly in OFA (Contact Martin Topper.)

42. "US Indian Tribes, Alaskan Native Villages, and Related Indian Files. July 1988. Update June 1989. EPA/OFA. See Appendix XXIII.

43. ITCA tribal list. See Appendix XXIV.

44. Tribal Environmental Program Managers' Association. See Appendix XXV.

45. Contact Chuck Reese, IPM OPP (703) 557-5017. See Appendix XXVI.

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PARTICIPATING TRIBES

Region I:	Passamaquody Narragansett
Region II:	Mohawks
Region IV:	Seminole Cherokee Micosaki
Region V:	Minnesota Chippewa Menominee Oneida
Region VI:	Acoma Sandia
Region VII:	Kickapoo
Region VIII:	Salish and Kootenai Fort Berthold Shoshone
Region IX:	Hopi Havasupai Fort Mohave Navajo Hualapai Hurok
Region X:	Makah Muckleshoot Klamath Spokane Yakima White Mountain Alaskan Village Tyonek Alaskan Village Telida Alaskan Village

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INTER-TRIBAL ORGANIZATIONS

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Council of Energy Resource Tribes
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National Congress of American Indians
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Northwest Fishery Commission
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(See Appendices for addresses)

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